IN THE SUPREME COURT
OF THE
UNITED STATES OF AMERICA

NO. 83-514

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SUPREME COURT, U.S.

ELIZABETH JANE HALL,

PETITIONER

v.

UNITED STATES OF AMERICA
THOMAS P. MCHUGH, AND
ELMER B. SNIDER,

RESPONDENTS

MOTION TO DEFER RULING AND TO CONSOLIDATE

TO THE HONORABLE, THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

MAY IT PLEASE THE COURT:

Petitioner Elizabeth Jane Hall, by and through the undersigned counsel, moves this Honorable Court to Defer Ruling upon her PETITION FOR A WRIT OF CERTIAORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT until the PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT has been received in Siebert v. Baptist, et al.

Petitioner further moves this Honorable Court to consolidate

the two Petitions for further ruling.

As grounds for this motion, your Petitioner has been advised by one Carl Michael Siebert that his case, Siebert v. Baptist, et al, which case contains virtually identical factual and constitutional issues to those of Petitioner's, will be before this Honorable Court on a PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT, on or before November 9, 1983. (See Exhibit A, wherein the United States Department of Justice, Tax Division, admits the two cases are "identical")

Petitioner represents to this Honorable Court that in the interest of judicial economy the Motion to Consolidate these two cases should be granted, and that this Honorable Court should Defer Ruling on Elizabeth Jane Hall v. United States, et al until after November 9, 1983.

Respectfully Submitted,

EDWIN F. KAGIN
ATTORNEY FOR PETITIONER
P.O. BOX 77
PEWEE VALLEY, KENTUCKY 40056
(502) 241-5554

CERTIFICATE

This is to certify that a true copy of the foregoing Motion To Defer Ruling and to Consolidate has been mailed, postage prepaid, on this 15th day of October, 1983, to:

HON. GLENN L. ARCHER, JR.
HON. MICHAEL J. ROACH
Assistant Attorney General
Tax Division, Department of Justice
Washington, D.C. 20530

HON. RONALD E. MEREDITH
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EDWIN F. KAGIN

U.S. Department of Justice

Tax Division

Washington, D.C. 20530

GLA:MLP:TAGick:vj
5-1-1500

May 6, 1983

Norman E. Zoller, Esquire
Clerk, U. S. Court of Appeals
for the Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Re: Carl Michael Seibert v. Dwight T. Baptist, District Director of Internal Revenue Service, et al.
(11th Cir. - No. 82-7163)

Dear Mr. Zoller:

The above-entitled appeal is scheduled for oral argument before the Court on May 24, 1983. Pursuant to Rule 28(j) of the Federal Rules of Appellate Procedure, we wish to supplement the authorities cited at pages 15-18 (Argument I) of our brief for the appellee with the Sixth Circuit's recent decision in Hall v. United States, 51 A.F.T.R. 2d 83-1011, 1012 n.1, 1014 (Mar. 25, 1983). There, in a factual situation identical to the case here on appeal, that court held that Revised Statutes, Sections 1979-1981 (42 U.S.C. §§1983, 1985, 1986) did not confer jurisdiction over the plaintiff's claim for damages. We also wish to add the Sixth Circuit's decision in Hall, supra, 51 A.F.T.R. 2d at 1013-1014 to the authorities cited at pages 38, 42 (Argument II) of our brief. In this portion of Hall, supra, the Sixth Circuit held that since the proper termination assessment procedure had not yet been declared at the time of the assessment, the federal defendant who terminated the plaintiff's taxable year was entitled to qualified official immunity.

We are enclosing three additional copies of this letter for distribution to the panel assigned to this case. A copy of this letter today will be mailed to counsel for the appellant.

Sincerely yours,

GLENN L. ARCHER, JR.
Assistant Attorney General
Tax Division

By:

MICHAEL L. PAUP
Chief, Appellate Section

Enclosures

EXHIBIT A